

Subject: Public records request under the Massachusetts Public Records Law M.G.L. c66, §§ 10-10A
Date: Wednesday, June 25, 2025 at 3:10:30 AM Eastern Daylight Time
From: Commonwealth Transparency
To: randallr@dor.state.ma.us, ClaymanA@dor.state.ma.us
Priority: High

Greetings:

This is a formal public records request under the Massachusetts Public Records Law M.G.L. c66, §§ 10-10A:

- This is a new request and does not replace or modify any prior requests.

Please provide any and/or all public records in your possession or under your control of the following;

- The last 50 (fifty) public records requests immediately preceding this request made upon the Massachusetts Department of Revenue **AND** where the response was authored by Mr. Roger H. Randall;
 - The Public records request, itself;
 - All responses, specifically including, but not limited to those authored by Mr. Randall;
 - All responsive records, if any, provided in response;

This request includes, but is not limited to any written letter(s) or memoranda, notes, electronic communication(s), and/or message(s) including but not limited to written documents, emails (Electronic mail), text messages, collaboration messages from platforms like teams, WhatsApp, and Git;

This request specifically includes searching ALL email accounts and addresses in your possession and/or under your control, including group and resource email addresses.

OpenCommonwealth reminds the RAO that the extraction of data from a database or electronic record system does not constitute creating a new record. See 950 CMR 32.07(1)(f).

This request seeks responsive documents be delivered in electronic format

and in the format in which they are regularly maintained and specifically includes all electronic mail attachments and metadata.

Where no such records in the above categories exist, please provide a written statement to that effect.

With respect to the form of production, we note that relevant regulations require the production of records in an accessible, commonly used electronic form. See 950 CMR 32.04(5)(d).

Your government entity may have multiple RAOs that are assigned to a specific division or department within that entity. A request to one RAO may include records of another division or department within the RAOs' agency or municipality. RAOs must use their superior knowledge of the records to ensure that a request for records is delivered to the appropriate party. Therefore, an RAO is expected to forward such requests to the appropriate parties within its municipality or agency.

The records custodian who receives this request is required to use his or her "superior knowledge" to determine the exact records that are responsive to this request.

Record custodians are also required to implement new record keeping systems and databases in such a way as to allow for "retrieval of public portions of records to provide maximum public access." See 950 CMR 32.07(1)(e).

Extraction of such data from a database or electronic record system does not constitute creating a new record. See 950 CMR 32.07(1)(f). Printing these records from a database or electronic system, redacting them with a marker, and then re-scanning them, is generally not consistent with these regulations; this process provides the digital records neither in the preferred form nor in a "searchable machine-readable form." 950 CMR 32.04(5)(d).

If necessary, we welcome reasonable suggested modifications pursuant to 950 CMR 32.06(2)(g). Per *Attorney Gen. v. Dist. Attorney for Plymouth Dist.*, 484 Mass. 260, 141 N.E.3d 429 (2020), compiling information from a database is not tantamount to creating a new record that would otherwise be precluded under

public records law. Specifically: "Where public records are in electronic form, a public records request that requires a government entity to search its electronic database to extract requested data does not mean that the extracted data constitute the creation of a new record, which would not be required, under the public records law. " Id. at 442 to 443.

Thus, we request that your department query its datastores, databases, electronic mail systems, cellular telephones, and all data retention systems and provide a response to the records request. Should you determine that some portions of the documents are exempt from disclosure, please release any reasonably segregable portions that are not exempt. In addition, please note for any such redactions the applicable statutory exemption and explain why it applies to the redacted or withheld information.

This request and all responsive documents are for express purposes of gathering information to promote citizen oversight and further the public understanding of the operation and activities of our government.

Kindest Regards,

OpenCommonwealth.org